



State of Indiana  
Indiana Department of Correction

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9/1/2016	7	04-04-102

**POLICY AND ADMINISTRATIVE  
PROCEDURE**  
**Manual of Policies and Procedures**

Title
<b>PEN-PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM PARTICIPATION AND COMPLIANCE REQUIREMENTS</b>

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
18 U.S.C. 1761 (c) IC 11-10-6-2 IC 11-10-6-11 IC 11-10-6-12 IC 11-10-7-2 IC 11-10-7-3 IC 11-10-7-5 IC 5-2-6.1-40	04-04-101	

I. PURPOSE:

The purpose of this policy and administrative procedure is to detail the Department’s process for compliance with the federally-administered Prison Industries Enhancement Certification Program (PIECP) within PEN’s correctional industries operations. This policy and administrative procedure outlines the criteria for eligibility for the program, the designation process, the wage determination process, the required voluntary participation of offender workers, process of offender participation in the program, the mandated deductions from the offender wages, the payroll process, and the compliance assessment process. This policy and administrative procedure shall clarify changes in the deduction nomenclature to more succinctly reflect its use.

II. POLICY STATEMENT:

PEN shall manage the PIECP work programs within its prison industries operations and do so within the strict guidelines of the PIECP. PEN is subject to PIECP compliance assessments to determine its adherence to the guideline. The result of these assessments determines the continued certification of PIECP in Indiana.

The management and operation of the PEN PIECP operations shall:

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- A. Maintain strict adherence to the PIECP guidelines [18 USC 1761 (c)] including the criteria, annual wage updates, and compliance assessments;
- B. Provide offenders with work experience that is voluntary and approximates the work environment of similar jobs in the community;
- C. Maintain consistency with the philosophy of PEN to provide work assignments for offender workers in a manner that approximates the free world work environment;
- D. Provide a professional workplace environment free of insolence, vulgarity, and profanity;
- E. Encourage safety in the workplace including the training of offenders in safety requirements and practices, as well as the utilization of personal protective equipment (PPE) as required by the work assignment;
- F. Pay the PIECP offender workers at rates approved by the Indiana Department of Workforce Development (DWD) for the specific job title performed in the locality of the correctional facility; and,
- G. Require PIECP offender workers to sign the PEN Worker Agreement and the PEN Operating Policies and Procedures which details work hours, attendance, workplace regulations, concerns/grievances, and grounds for dismissal.

**III. DEFINITIONS:**

- A. AP-63: The form required by the Auditor of the State to pay the PIECP offender workers.
- B. PEN: An acronym for Prison Enterprise Network. PEN is the correctional industry's division of the Department. PEN's mission is to equip offenders for successful Re-Entry through meaningful work and career development while operating in a self-sustaining manner.
- C. PEN-PIECP VOLUNTARY WORKER AGREEMENT: A form required to be signed by the offender worker prior to working in the PIECP shops. This form details the offender's name, DOC number, Social Security Number, and job title. The worker agreement covers the required voluntary participation in the program and details all amounts that will be deducted from the offender PIECP pay.

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- D. **PIECP:** The Prison Industry Enhancement Certification Program is a federally administered program allowing for an exemption to the federal prohibition of the interstate commerce of tangible, prisoner-made goods. PIECP is administered by the United States Department of Justice (DOJ), Bureau of Justice Assistance (BJA). PEN has been certified in PIECP since 1992 and has been actively participating in PIECP since 1998. PIECP has wage requirements and deductions from pay requirements as codified in the Federal Register at 18 USC 1761 (c).
- E. **PIECP PAY DEDUCTIONS:** Monies deducted from PIECP offender worker's gross wages:
1. Taxes (federal, State, and local) shall be withheld at an allowance rate of single/one only;
  2. PEN-PIECP Administration Fee is a deduction of forty per cent (40%) of gross wages. The Commissioner has directed this deduction to PEN for the purpose of lowering the costs otherwise incurred to maintain and operate the PIECP, prison industry, as well as provide for startup costs of new offender job operations. BJA defers to State with respect to determining the amounts of such deductions, as well as identifying the specific needs to which such deducted amounts may be directed. This remains consistent with the PIECP guidelines in the Federal Register;
  3. Support of dependents shall be deducted only by request of the offender worker;
  4. Victim's Fund deductions are deducted at ten per cent (10%) of gross wages and these deductions shall be deposited in the State's violent crime victim's compensation fund as established by Indiana Code 5-2-6.1-40.

The total of all deductions shall not exceed eighty per cent (80%) of the gross wages. The remaining funds shall be available to the respective offender's Trust Fund account for use in accordance with established Department policies and procedures, including Policy and Administrative Procedure 04-01-104, "Inmate Trust Fund," and Policy and Administrative Procedure 02-01-106, "Offender work Assignments and Pay Schedules." These funds may be used for restitution, fines, and other court-ordered obligations and for voluntary non-court ordered family support.

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- F. **PIECP WAGE PLAN:** The wage scale by offender job titles that starts PIECP offender workers at a training wage (Federal Minimum Wage-FMW) and moves them to the tenth (10<sup>th</sup>) percentile wage level within one hundred eighty (180) days. This wage plan is approved by the DWD and is accepted by the BJA.
- G. **PIECP WAGE REQUIREMENTS:** Detailed in the Federal Register, PIECP workers shall be paid no less than the Federal Minimum Wage (FMW). PIECP offender workers can be paid no less than the prevailing wage for their specific job title in the locality of the correctional facility. PEN requests, receives, and implements these wages annually from the DWD.
- H. **SOCIAL SECURITY NUMBER VERIFICATION FORM:** The form that affirms the offender's Social Security Number provided is accurate and shall be completed by the offender PIECP worker prior to the start of work.

**IV. PIECP DESIGNATION PROCESS:**

Prior to opening a new PIECP operation, a designation of the operation must be approved by the BJA. The PIECP designation application includes submitting the application to BJA which address the required criteria:

- A. The Department's PIECP certification;
- B. Private sector wages and worker displacement;
- C. Worker's Compensation benefit equivalent;
- D. Deductions from wages;
- E. Voluntary Worker Agreement;
- F. Consultation with labor;
- G. Consultation with local businesses; and,
- H. Compliance with the National Environmental Policy Act (NEPA).

The approved designation letter signed by the BJA PIECP Manager shall be received prior to offenders working on product in the PIECP operation.

**V. PIECP OFFENDER APPLICATION AND HIRING PROCESS:**

Offender workers are made aware of job openings in the PIECP operation by postings of jobs via the facility's job postings in a manner customary to the facility. The job postings shall list the required skills and experience.

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Offenders shall submit applications and the designated PEN staff member selects the offenders for interviews from those offender applications that best fit the job requirements. Offenders are interviewed and the best applicants are selected for the openings. Notifications are sent to the offenders that were interviewed. Those offenders selected for the PIECP work assignment are notified of a specific start date. Prior to starting work in the PIECP operation, the offender worker shall be required to complete the Voluntary Worker Agreement and all required payroll documents as outlined in Section VII of this Policy and Administrative Procedure.

Grounds for dismissal and termination from the offender’s PIECP job assignment are detailed in PEN’s *Career Focused Re-Entry Operating Procedures and Policies*.

**VI. PIECP WAGE DETERMINATION PROCESS:**

As part of the designation process and annually thereafter, PEN shall request wages from the DWD for each PIECP operation. The request shall be in writing and shall address each specific job title and the locality of the correctional facility. The DWD response will include wages that do not displace free world workers and meets the requirements of the tenth (10<sup>th</sup>) percentile of wage data.

DWD will review the PIECP Wage Plan annually and will provide a signed copy signifying its approval.

**VII. PIECP PAYROLL ADMINISTRATION PROCESS:**

Offender workers selected to work in a designated PIECP operation at PEN are required to complete all documentation prior to working in the PIECP operation. The documents include:

1. Voluntary Worker Agreement;
2. AP-63;
3. Social Security Number Verification form;
4. Direct Deposit form; and,
5. Tax withholding documents: Federal (W-2) and State (W-9).

The PEN facility management shall have these documents signed before the offender starts working in the PIECP operation. These documents shall be submitted to the PEN Central Office Payroll Office to enter the offender in the State system to receive PIECP pay. A copy of these documents shall be maintained at the facility and the PEN Central Payroll Office.

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PIECP payroll is submitted every two (2) weeks to the designated PEN Central Office Payroll Accountant.

The office of the Auditor of the State is used to process the PIECP payroll administering the deductions for taxes, victim's fund, and the PEN-PIECP Administration Fee. The checks are processed and the deposit shall be made available to the PIECP workers via the Inmate Trust Fund account. A copy of the check is provided to the PIECP offender worker.

**VIII. PIECP QUARTERLY REPORTING:**

The BJA requires PEN to submit quarterly reports that detail, by PIECP operation:

1. The number of offenders working;
2. The number of hours worked;
3. Gross wages paid; and,
4. All deductions from gross wages.

The quarterly reports are due thirty days after the end of each quarter (April 30, July 31, October 31, and January 31).

**IX. PIECP ASSESSMENT PROCESS:**

The BJA is required to review the PIECP operations to ensure compliance to the Federal guidelines. The BJA conducts assessments, both on-site and by record submission, to review compliance with the required PIECP criteria.

PEN shall provide BJA all requested documentation prior to the PIECP assessment and provide escort of the on-site PIECP assessor through the requested Department facilities. PEN shall provide payroll information, access to the PEN-PIECP voluntary Worker Agreements while the PIECP assessor is on-site. PEN shall provide a tour of the requested PIECP operation and access to PIECP offender workers for interviewing purposes.

PEN shall provide any further requested documentation after the on-site visit.

BJA will provide PEN and the Department with the results of the assessment and determination if found in compliance. If found not in compliance, the BJA will provide plan of action steps that must be completed to achieve compliance.

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X. APPLICABILITY:

This policy and administrative procedure is applicable to all current and prospective PIECP offender workers, PIECP PEN staff members, and PIECP-operating facilities.

\_\_\_\_\_  
signature on file  
Bruce Lemmon, Commissioner

\_\_\_\_\_  
Date